



Billing Code 6325-64

OFFICE OF PERSONNEL MANAGEMENT

5 CFR 894

RIN 3206-AN58

Federal Employees Dental and Vision Insurance Program: Extension of Eligibility to Certain TRICARE-Eligible Individuals; Effective Date of Enrollment

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: In this final rule, the Office of Personnel Management (OPM) is finalizing an interim final rule that expanded eligibility for enrollment in the Federal Employees Dental and Vision Insurance Program (FEDVIP) to additional groups. The National Defense Authorization Act for Fiscal Year 2017 (FY17 NDAA) expanded FEDVIP eligibility to certain TRICARE-eligible individuals (TEIs). This final rule adopts the interim final rule and corrections as published. This final rule also includes technical clarifications to the interim final rule.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Julia Elam, Program Analyst, at julia.elam@opm.gov or (202) 606-2128.

SUPPLEMENTARY INFORMATION: On November 19, 2018, OPM issued an interim final rule (83 FR 58175) amending 5 CFR 894, to expand eligibility for enrollment in the FEDVIP to certain TEIs. OPM provided 60 days for the public to comment on the interim final rule. The comment period expired on January 18, 2019. OPM received no public comments. A correcting amendment, published on February 5, 2019, (84 FR 1599) corrected the interim final regulations

by adding the definition for “TEI family member” and also amended an incorrect reference regarding the restriction on dual enrollments.

FEDVIP is administered by OPM in accordance with 5 U.S.C. chapters 89A and 89B and implementing regulations (5 CFR part 894). Section 715 of Public Law 114-328 authorizes the Secretary of Defense to enter into an agreement with the OPM Director to allow certain TEIs to enroll, or to be covered under an enrollment in FEDVIP. Further information about this rule can be found in the interim final rule.

This final rule also includes technical clarifications to the interim final regulations. First, in the supplementary information of the interim final rule, it should state, “As of March 31, 2018, FEDVIP has 3.4 million enrollees with approximately 4.7 million covered individuals. Secondly, in 5 CFR 894.101, the term “military” is removed from the definition of sponsor in reference to the Reserves because all Reserves are not military. For example, the Coast Guard has a Reserve but is not military as it is an Armed Force. Thirdly, in 5 CFR 894.306 and 5 CFR 894.814, OPM clarifies that while a foster child of a TEI is generally excluded from FEDVIP eligibility, a foster child of a TEI who is a ward in the legal custody of a sponsor is eligible as a TEI family member. Lastly, the term sponsor should be in italics as it is a defined term, and the first letter of the term does not appear in italics in the interim final rule in 5 CFR 894.309 (a)(1), (a)(2), and (b)(1).

Expected Impact of the Final Rule

This rule is a deregulatory action because it offers more dental coverage options and new vision coverage in FEDVIP for TRICARE-eligible individuals. TRDP beneficiaries currently have one option for dental coverage or can seek coverage in the private dental insurance market. Vision coverage is a new government-offered benefit for this population. Eligibility to enroll in

FEDVIP provides more coverage options for these individuals than are currently available to them.

OPM contracts with 10 dental carriers and 4 vision carriers to offer plans under FEDVIP. There are 15 dental plan options available across FEDVIP from these 10 dental carriers. Within the 4 vision carriers, there are 8 vision plan options that are nationwide and internationally available to all potential enrollees. While the rule expands the number of individuals who are potentially eligible for this FEDVIP, it will not have a large impact on the broader dental or vision insurance markets as FEDVIP generally constitutes a smaller percentage of an overall carrier's book of business.

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule is not a “significant regulatory action,” under Executive Order 12866 and has not been reviewed by OMB.

Reducing Regulation and Controlling Regulatory Costs

This final rule is considered an EO 13771 deregulatory action. Details can be found in the Expected Impact of The Final Rule section of the rule.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local or tribal governments of more than \$100 million annually. Thus, no written assessment of unfunded mandates is required.

Congressional Review Act

This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35)

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves a collection of information subject to the PRA for the Federal Employees Dental and Vision Insurance Program (FEDVIP) Enrollment System, known as BENEFEDS. OPM is in the process of seeking OMB approval. The public reporting burden for

this collection is estimated to average 8 minutes for a respondent to submit an enrollment including time for reviewing education and support but may not include time for reviewing a plan and specific benefits. The total burden hour estimate for this form is 44,307 hours. The systems of record notice for this collection is: Central-1 found on <https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-central-1-civil-service-retirement-and-insurance-records.pdf>.

List of Subjects in 5 CFR Part 894

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Military personnel, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Alexys Stanley,
Regulatory Affairs Analyst.

Accordingly, the interim final rule amending 5 CFR part 894, which was published on November 19, 2018, and the correcting amendments, published on February 5, 2019, are adopted as final without change, and 5 CFR part 894 is further amended by making the following correcting amendments:

PART 894—FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM

1. The authority citation for part 894 continues to read as follows:

Authority: 5 U.S.C. 8962; 5 U.S.C. 8992; Subpart C also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604; Pub. L. 114–328.

Subpart A—Administration and General Provisions

2. Amend §894.101 by revising the definition for “sponsor” to read as follows:

§ 894.101 Definitions.

* * * * *

Sponsor generally means the individual who is eligible for medical or dental benefits under 10 U.S.C. chapter 55 based on his or her direct affiliation with the uniformed services (including members of the National Guard and Reserves), in accordance with § 894.804.

* * * * *

Subpart C—Eligibility

3. Revise § 894.306 to read as follows:

§ 894.306 Are foster children eligible as family members?

Generally, foster children are eligible for coverage as *family members* under FEDVIP. However, a foster child is excluded from the definition of a *TEI family member*, except a foster child who is a ward in the legal custody of a *sponsor*. A pre-adoptive child and an eligible ward in the legal custody of a *sponsor* are eligible as *TEI family members*.

Subpart H—Special Provisions for TRICARE-Eligible Individuals (TEI)

4. Revise § 894.814 to read as follows:

§ 894.814 Is a foster child included in the definition of *TEI family member*?

Generally, a foster child is excluded from coverage as they are not defined to be a *TEI family member*. However, a pre-adoptive child, adopted child, and an eligible ward in the legal custody

of a *sponsor*, including a foster child who is a ward in the legal custody of a *sponsor*, are considered *TEI family members*.

[FR Doc. 2019-11939 Filed: 6/6/2019 8:45 am; Publication Date: 6/7/2019]